

NO FEE PAID

NL
6PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name BROUSSARD ANTHONY 2008 JUN -6 P 2:03
 (Last) (First) (Initial)
 Prisoner Number C-56988
 Institutional Address FOLSOM STATE PRISON, P.O. BOX 950
FOLSOM, CALIF. 95763

RICHARD W. WIEKING
 CLERK
 U.S. DISTRICT COURT
 NO. DIST. OF CA. S.J.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

C08 02838

JW

ANTHONY BROUSSARD
 Full Name of Petitioner

Case No. _____
 (To be provided by the clerk of
 court)

vs.

M.C. KRAMER, WARDEN
 Name of Respondent
 (Warden or jailor)

PETITION FOR A WRIT OF HABEAS CORPUS

Read Comments Carefully Before Filling InWhen and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainers), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

SANTA CLARA COUNTY SUPERIOR COURT

SAN JOSE

Court

Location

(b) Case number, if known 82546

(c) Date and terms of sentence DECEMBER 3, 1982. 25 TO LIFE

WITH SPECIAL CIRCUMSTANCES

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes XX No

Where? FOLSOM STATE PRISON (OLD)

P.O. Box 950, REPCESA CA. 95763

(Name of Institution)

(Address)

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

MUDER IN THE FIRST DEGREE/SPECIAL CIRCUMSTANCES

3. Did you have any of the following?

Arraignment: Yes XX No Preliminary Hearing: Yes XX No

Motion to Suppress: Yes No XX

4. How did you plead?

Guilty _____ Not Guilty XX Nolo Contendere _____

Any other plea (specify) CHANGED PLEA AFTER FIVE DAYS. TOOK A PLEA DEAL OF 25 TO LIFE

5. If you went to trial, what kind of trial did you have?

Jury XX Judge alone _____ Judge alone on a transcript _____

6. Did you testify at your trial? Yes _____ No XX

7. Did you have an attorney at the following proceedings:

- (a) Arraignment Yes XX No _____
 (b) Preliminary hearing Yes XX No _____
 (c) Time of plea Yes XX No _____
 (d) Trial Yes XX No _____
 (e) Sentencing Yes XX No _____
 (f) Appeal Yes XX No _____
 (g) Other post-conviction proceeding Yes _____ No XX

8. Did you appeal your conviction? Yes XX No _____

(a) If you did, to what court(s) did you appeal?

Court of Appeal	Yes <u>XX</u>	No _____	<u>1-17-85</u>	<u>JUDGEMENT AFFIRMED</u>
			(Year)	(Result)
Supreme Court of California	Yes <u>XX</u>	No _____	<u>U/A</u>	<u>DENIED</u>
			(Year)	(Result)
Any other court	Yes _____	No _____	_____	_____
			(Year)	(Result)

(b) If you appealed, were the grounds the same as those that you are raising in this petition? Yes _____ No XX

(c) Was there an opinion? Yes _____ No XX

(d) Did you seek permission to file a late appeal under Rule 31(a)? Yes _____ No XX

If you did, give the name of the court and the result:

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes _____ No XX

Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. § 2244(b).

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court U.S. District Court for the Northern District of California, San Jose Div.

Type of Proceeding Habeas Corpus

Grounds raised (Be brief but specific):

- a. Ineffective Assistance of Counsel
- b. Violation of State and Federal Due Process of Welfare & Institution code
- c. Trial Court erred using criteria in the Administrative code, §4157 & 4168
- d. Punishment cruel and unusual.

Result Dismissed as untimely Date of Result July 13, 2006

II. Name of Court N / A

Type of Proceeding _____

Grounds raised (Be brief but specific):

- a. _____
- b. _____
- c. _____
- d. _____

Result _____ Date of Result _____

III. Name of Court N / A

Type of Proceeding _____

Grounds raised (Be brief but specific):

- a. _____

- b. _____
 c. _____
 d. _____

Result _____ Date of Result _____

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court? Yes _____ No XX

 (Name and location of court)

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you need more space. Answer the same questions for each claim.

Note: You must present ALL your claims in your first federal habeas petition. Subsequent petitions may be dismissed without review on the merits. 28 U.S.C. § 2244(b); McCleskey v. Zant, 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).

Claim One: Petitioner incorporates by reference the claims set forth

See (Habeas petition filed simultaneously with this pleading)

Supporting Facts: Petitioner incorporates by reference the supporting facts set forth. See (Habeas petition filed simultaneously with this pleading)

Claim Two: _____

Supporting Facts: _____

Claim Three: _____

Supporting Facts: _____

If any of these grounds was not previously presented to any other court, state briefly which grounds were not presented and why:

Ground/Claim #1 ~~Had not been~~ Exposed till late 2003 where Brown V. Poole brought to light the issue of the ongoing Violation of the Plea deals through out the state.

List, by name and citation only, any cases that you think are close factually to yours so that they are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning of these cases:

Brown v. Poole, (2003) 337 F. 3d 1155. People v. Vargas, (2001) 9 Cal App. 4th 506, 533-34

INS v St. Cyr, (2001) 533 U.S. 289, 322-25. In re Monigold, (1988) 205 Cal. App. 3d 1224.

Do you have an attorney for this petition? Yes _____ No XX
If you do, give the name and address of your attorney:

WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

Executed on

Date

June 4, 2008

Signature of Petitioner

PROOF OF SERVICE BY MAIL

I, Anthony Broussard, AM A RESIDENT OF FOLSOM STATE PRISON IN THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA. I AM OVER THE AGE OF 18 YEARS.

MY PRISON NUMBER: C - 56988, MY PRISON ADDRESS: P.O. BOX 950, FOLSOM, Ca. 95763

ON JUNE, 4, 2008 I SERVED A COPY OF THE FOLLOWING DOCUMENT:

MOTION FOR A WRIT OF HABEAS CORPUS

ON THE FOLLOWING PARTIES BY PLACING THE DOCUMENTS IN A SEALED ENVELOPE WITH THE POSTAGE FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT FOLSOM STATE PRISON (MAILBOX RULE), REPRESA CALIFORNIA, ADDRESSED AS FOLLOWS:

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
280 S. First Street #2112
San Jose, Ca. 95113-3008**

THERE IS A DELIVERY SERVICE BY THE UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND/OR THERE IS A REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON JUNE, 4, 2008 AT REPRESA, CALIFORNIA


Signature here